SUMMARY REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

Date of Incident:	June 16, 2018
Time of Incident:	12:42 p.m.
Location of Incident:	1157 S. Whipple
Date of COPA Notification:	June 25, 2018
Time of COPA Notification:	1:59 p.m.
in the front passenger so calking with her niece who was stoolice vehicle stopped and Office approached the passenger side of colaced in handcuffs are and bystanders began yeard to back up number of grabbed a money order of the same o	was driving her vehicle with her boyfriend, eat. They pulled over in front of a store and began tanding outside her vehicle on the driver side. An unmarked ers Moranz, Bourdosis, and Acosta exited. Officer Acosta the vehicle and ordered to exit. Officer Bourdosis and walked him over toward the police vehicle. Elling at the officers. Officer Acosta began searching the vehicle terous times. While Officer Acosta was searching the vehicle, but of the center console because she was worried that it would his arm and made contact with shoulder in an effort e. Officer Acosta's search of the vehicle uncovered two loose When he concluded the search, Officer Acosta called for a in for "Soliciting an Unlawful Business".
Involved Officer #1:	Jaime Acosta Star #16462 Employee ID # Date of Appointment: December 14, 2015 Rank: Police Officer Unit of Assignment: 010 DOB:
Involved Individual #1:	DOB: 1986 Gender: Female Race: Black

III. ALLEGATIONS

Officer	Allegation	Finding/ Recommendation
Officer Jaime Acosta	1. Pushed without justification, in violation of Rule 9.	Exonerated
	2. Searched car without permission or justification, in violation of Rule 1.	Exonerated
	3. Told to "get the fuck away", in violation of Rules 2 and 8.	Not Sustained
	4. Failed to complete an Investigatory Stop Report for the search of vehicle, in violation of Rule 6.	Exonerated
	5. Failed to provide an Investigatory Stop Receipt to for the search of her vehicle, in violation of Rule 6.	Exonerated

IV. APPLICABLE RULES AND LAWS

Rules

Rule 1 – Prohibits violation of any law or ordinance.

Rule 2 – Prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

Rule 6 – Prohibits disobedience of an order or directive, whether written or oral.

Rule 8 – Prohibits disrespect to or maltreatment of any person, while on or off duty.

Rule 9 – Prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

General Orders

1. G03-02: Use of Force

- 2. G03-02-01: Force Options
- 3. G03-02-02: Incidents Requiring the Completion of a Tactical Response Report
- 4. G07-03: Vehicle Towing and Relocation Operations

Special Orders

1. S04-13-09: Investigatory Stop System

Federal Orders

1. Fourth Amendment to the Constitution

V. INVESTIGATION¹

a. Interviews

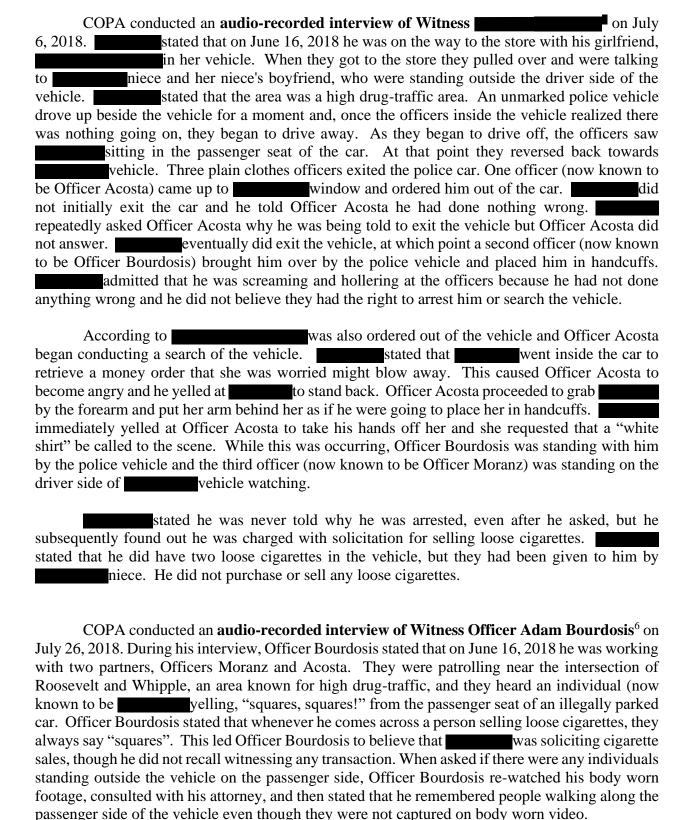
COPA conducted an **audio-recorded interview of Complainant** June 25, 2018. stated that on June 16, 2018 at around 12:30p.m. she was driving her vehicle with her boyfriend, in the passenger seat near Roosevelt and Whipple. She stopped and pulled over to the right side of the road to speak to an old friend when a blue police car pulled up and stopped. Three plain-clothes officers got out of the vehicle. One of the officers said to "You think you slick? Get the fuck out." Both got out of the vehicle. One of the officers placed under arrest for solicitation. stated that a short Hispanic officer with a green shirt and black jeans (now known to be Officer Acosta) conducted a search of the vehicle. Stated that Officer Acosta was going through the glove box and removing things. Stated that she had just gotten a money order to pay her rent and she was worried the wind would blow it away. At this point, Officer Acosta told to "Get the fuck back"⁴. Example 1 yelled at Officer Acosta that she was not going to be able to pay her rent if the money order blew away. Officer Acosta became upset and pushed threatening to arrest her. told Officer Acosta not to touch her and requested that he call a "white shirt". Proceeded to grab the money order from the car so that it did not blow away. Stated that while Officer Acosta searched the vehicle, another officer (now known to be Officer Moranz) was standing by the driver's side of the car and a third officer (now known to be Officer Bourdosis) was standing on the passenger side of the vehicle with stated that a blue and white car came to transport to the station and, at that point, Officer Acosta returned her keys to her. stated that she then drove to the police station to file a complaint. Stated she did not find out what they arrested for until after he was released. She stated that he had purchased two loose cigarettes from a guy standing on the corner a few seconds before the police approached. who had sold the cigarettes to was still there when the police came, but the police never questioned him.

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² Attachment 14.

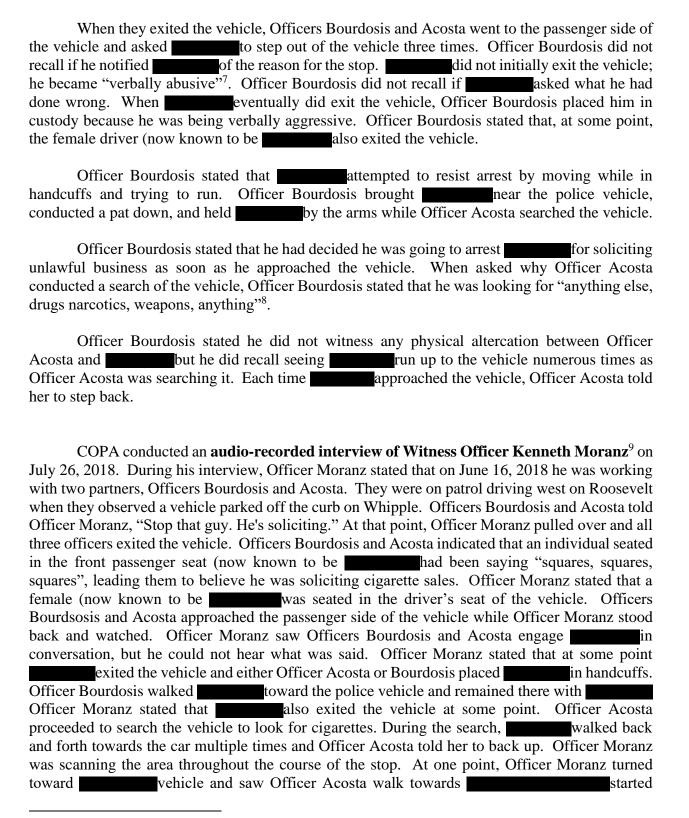
³ *Id.* at 02:42.

⁴ *Id.* at 03:20.



⁵ Attachment 20.

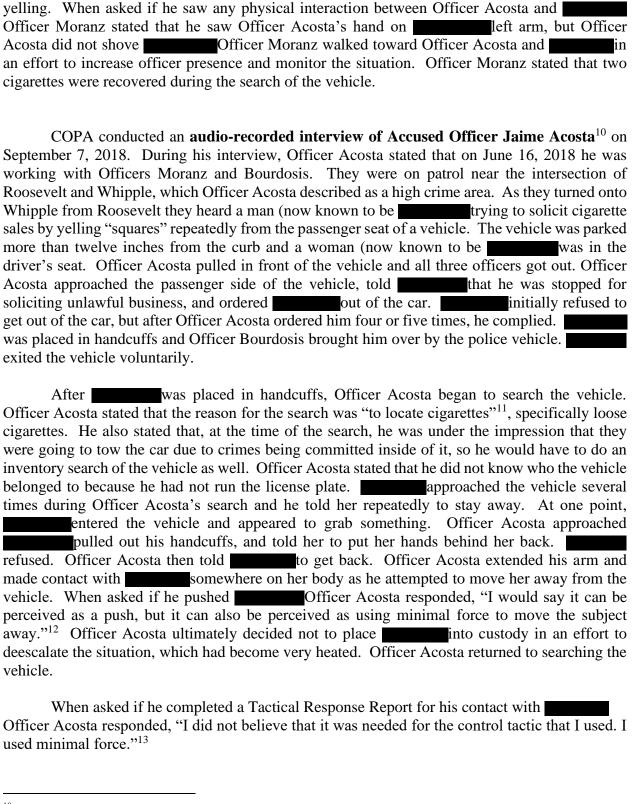
⁶ Attachment 27.



⁷ *Id.* at 16:23.

⁸ *Id.* at 21:57.

⁹ Attachment 26.



¹⁰ Attachment 33.

¹¹ *Id*. at 21:43.

¹² *Id.* at 26:00.

¹³ *Id.* at 28:50

Officer Acosta stated that he did not complete the search of the vehicle because the scene had become very chaotic. During his partial search, Officer Acosta recovered two loose cigarettes from the center console of the vehicle. Officer Acosta did not complete an Investigatory Stop Report for for the search of her vehicle. When asked why, Officer Acosta replied, "I didn't search her; I didn't pat her down; I didn't arrest her. The search of the vehicle was based on the actions of the passenger, which was documented in Longwood's ISR. And, also, because her vehicle was going to be towed, I was under the impression that she was able to leave on her own free will. She was not being detained." However, Officer Acosta acknowledged that he was in possession of her house and car keys at the time.

b. Digital Evidence

Officers Acosta, Moranz, and Bourdosis were all equipped with **Body Worn Cameras**¹⁵ that partially recorded the incident. The following is a summary of what was depicted on all body worn camera footage taken as a whole:

vehicle is parked on the east side of Whipple across from Brother	rs Food and
Liquor. Liquor is seated in the driver seat and list seated in the front pas	senger seat.
appears to be talking to a female who is standing outside the driver side of	the vehicle.
Officer Acosta approaches vehicle on the passenger side and orders	to get
out of the car. Officer Acosta attempts to open the passenger door and	abs the door
and tries to pull it closed. Officer Acosta succeeds in opening the door and again order	rs
to get out of the vehicle. screams at the officer that he hasn't done anyther	ning wrong.
Officer Acosta responds, "Step out of the car or we are going to impound the car." ¹⁶ A	
exits the vehicle. Officer Bourdosis places in handcuffs and wal	ks him over
to the side of the police vehicle. also exits the vehicle.	continue
to yell and Officer Bourdosis tells them to "relax" ¹⁷ .	

Officer Acosta begins to search wehicle. He tells to "step back" and then asks her to "please step away from the car" He exclaims "Jesus fucking Christ. Fucking ridiculous. Ignorant!" Officer Acosta continues to search the driver's side of the vehicle while screaming continues in the background. Officer Acosta then says, "Alright, that's it!" and goes around to the passenger side toward who appears to have just reached for something inside the car. Officer Acosta grabs his handcuffs and says, "Ma'am put your hands..." and then screaming breaks out between Officer Acosta and officer Acosta proceeds to place his right hand on shoulder and move her away from the car. Steps off the curb onto the street. The two continue to scream at each other for a few seconds. Officer Acosta then puts the handcuffs away and returns to searching the vehicle. A few moments later, Officer Acosta

¹⁴ *Id.* at 34:00.

¹⁵ Attachment 29.

¹⁶ Id. at 00:44 (on Bourdosis' BWC).

¹⁷ Id. at 04:10 (on Bourdosis' BWC).

¹⁸ *Id.* at 01:03 (on Acosta's BWC).

¹⁹ *Id.* at 02:10 (on Acosta's BWC).

²⁰ *Id.* at 02:17 (on Acosta's BWC).

²¹ *Id.* at 02:47 (on Acosta's BWC).

²² *Id.* at 02:53 (on Acosta's BWC).

and tells him, "If you guys keep this shit up, I'm going to lock you pore to lock you going to lock me up for?" Officer Acosta responders of the soliciting an unlawful business" Screams that he has "no unlawful drugs" At the point, Officer Acosta tells Officer Bourdosis to "take him in". Officer Acosta returns to the vehicle and grabs two loose cigarettes out of the cupholder in the center console. Moments late a transport vehicle arrives and two uniformed officers place in their squad car. A crow of people are still screaming in the background as the footage ends.			
Throughout the entire interaction, Officer Moranz remained standing off on the passenge side of vehicle observing.	er		
c. Documentary Evidence			
An Arrest Report for 12:42p.m., Officers Acosta and Bourdosis were on patrol when they observed seated in the front passenger seat of a gray Nissan Sentra. was yelling "squares, squares at several unknown individuals while illegally parked at 1157 S. Whipple. The officers believe "squares" to be a street term for the illegal sale of cigarettes. Officers exited their unmarked vehic and requested that exit the Nissan several times. eventually complied ar was placed into custody. A search of the vehicle revealed Newport cigarettes in the center consol was arrested for Soliciting Unlawful Business and transported to the 10 th District for processing.	es" ed ele nd le.		
An Investigatory Stop Report (ISR) ²⁹ for completed by Office Acosta includes the same narrative as the Arrest Report. The ISR also lists grey Nissan Sentra in the "Vehicle Details" section.	er		
An Initiation Report ³⁰ authored by Sgt. David Hickey #1021 indicates that Sgt. Hickey viewed the body camera footage from Officers Acosta and Moranz. Sgt. Hickey stated that the footage shows repeatedly approaching the vehicle while Officer Acost conducts a search incident to the arrest of who was a passenger in yells at Officer Acosta while standing near the vehicle. Sgt. Hickey stated that the footage depicts obstructing Officer Acosta's investigation. Officer Acosta places he hand on shoulder and moves her away from the vehicle in order to prevent her from advancing toward the vehicle and interfering with Officer Acosta's search. At that point, remains clear of the vehicle but continues to yell at the officers. Sgt. Hickey stated that the footage does not depict Officer Acosta telling to "get the fuck away from the car".	he ar. he nis		
²³ <i>Id.</i> at 03:46 (on Acosta's BWC). ²⁴ <i>Id.</i> at 03:49 (on Acosta's BWC).			

<sup>Id. at 03:54 (on Acosta's BWC).
Id. at 03:55 (on Acosta's BWC).
Attachment 8.
Attachment 10.</sup>

³⁰ Attachment 9.

VI. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

- 1. <u>Sustained</u> where it is determined the allegation is supported by a preponderance of the evidence;
- 2. <u>Not Sustained</u> where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
- 3. <u>Unfounded</u> where it is determined by clear and convincing evidence that an allegation is false or not factual; or
- 4. <u>Exonerated</u> where it is determined by clear and convincing evidence that the conduct descried in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct reviewed complied with Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 III. 2d 100, 191 (2005), (a proposition is proven by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

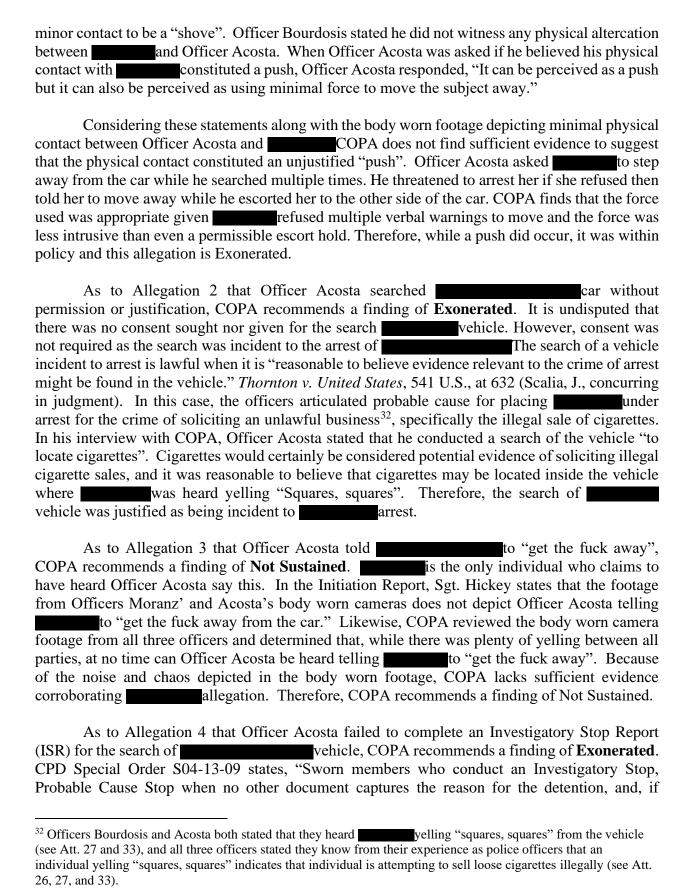
Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. See *e.g.*, *People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

VII. ANALYSIS

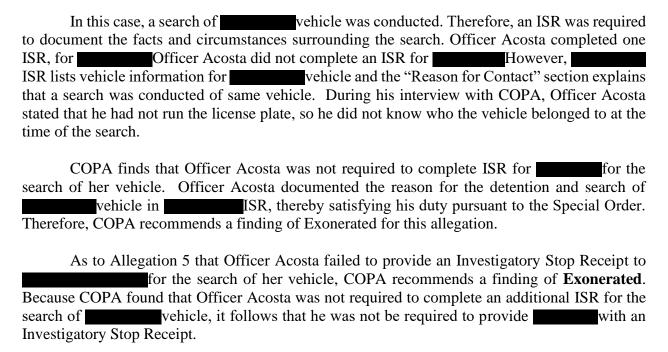
As to Allegation 1 that Officer Acosta pushed	without justification,
COPA finds the allegation is Exonerated . During her interview with COPA	stated that
she attempted to grab a money order out of her vehicle while Officer Acc	osta was searching the
vehicle. stated that Officer Acosta told her to get back and she be	egan yelling at Officer
Acosta. Officer Acosta then became upset and pushed	
However, perception of the physical interaction is no	t corroborated by the
witnesses. stated during his interview with COPA that he wit	nessed the altercation
between and Officer Acosta. When asked if Officer Acosta pushe	d
responded, "No, he didn't push her, no." When asked to describe the alterc	ation, stated
that Officer Acosta simply grabbed arm and attempted to put it	behind her back in an
effort to place her in handcuffs. Likewise, Officer Moranz stated he saw O	fficer Acosta place his
hand on arm in an effort to move her away from the car, but h	e did not consider the

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³¹ Attachment 20 at 24:20.



applicable, a Protective Pat Down or other search in a public place, are required to submit an Investigatory Stop Report into the Investigatory Stop Database." The Special Order explains that the reason for completing the ISR is to ensure sworn members document the facts and circumstances of (a) an Investigatory Stop; (b) a Probable Cause stop when no other document captures the reason for the detention; and (c) a Protective Pat Down or other search.



VIII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding/ Recommendation
Officer Jaime Acosta	1. Pushed without justification, in violation of Rule 9.	Exonerated
	2. Searched car without permission or justification, in violation of Rule 1.	Exonerated
	3. Told to "get the fuck away", in violation of Rules 2 and 8.	Not Sustained
	4. Failed to complete an Investigatory Stop Report for the search of vehicle, in violation of Rule 6.	Exonerated

	5.	Failed to provide an Investigatory Stop Receipt to for the search of her vehicle, in violation of Rule 6.	Exonerated
Approved:			
		January 29, 2020)
Andrea Kersten Deputy Chief Administrate	or – Ch	Date ief Investigator	

Appendix A

Assigned Investigative Staff

Squad#: 4

Investigator: Kerri Wyman

Supervising Investigator: James Murphy-Aguilu

Deputy Chief Administrator: Andrea Kersten